

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

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JAN 22 2001

Judge
THOMAS F. HOGAN

In Re: Vitamin Antitrust Litigation

This Document Relates To:

LIVENGOOD FEEDS, INC., et al.,

Plaintiffs,

v.

MERCK KGaA, et al,

Defendants.

Misc. No. 99-197 (TFH)

MDL 1285

FILED

JAN 23 2001

**NANCY MAYER WHITTINGTON, CLERK
U.S. DISTRICT COURT**

**ANIMAL SCIENCE PRODUCTS,
INC., et al.,**

Plaintiffs,

v.

CHINOOK GROUP, LTD., et al.,

Defendants.

STIPULATION REGARDING CLASS BRIEFING SCHEDULE

At the September 13, 2000 Status Conference, the Court vacated the October 16, 2000 due date of defendants'¹ responses to class plaintiffs' motions for class certification (which had

¹ The term "defendants" is used here to apply to the non-settling class defendants that remain in these cases. They include defendants Merck KGaA; E. Merck; EM Industries, Inc.; Lonza Inc.; Lonza AG; Sumitomo Chemical Co., Ltd.; Sumitomo Chemical America, Inc.; Tanabe USA, Inc.; DeGussa-Huls Corp.; DeGussa-Huls AG; Nepera, Inc.; Reilly Industries, Inc.; Bioproducts Incorporated; Chinook Group, Inc.; Chinook Group Ltd.; Cope Investments, Ltd.; Peter Copland; Patrick Stayner; John Kennedy; Robert Samuelson; DCV, Inc.; DuCoa LP; J.L. "Pete" Fischer; Mitsui & Co., Ltd.; Mitsui & Co. (U.S.A.), Inc.; and UCB Pharma Inc. (Class plaintiffs in the choline class action recently moved to amend their complaint to substitute

been established by section 11(d) of the April 28, 2000 Amended Order Establishing Pretrial Schedule and Procedures). As explained to the Court during the Status Conference, the depositions of the class representatives were suspended pending this Court's resolution of the downstream data issues as they related to depositions. Thus, if held to the October 16, 2000 response date, defendants would have been required to respond to class plaintiffs' motion for class certification without having taken any depositions of the designated class representatives.

Upon the Court's withdrawal of the October 16, 2000 due date, the parties agreed to negotiate and submit, based on scheduling and progress of class representative depositions, a new proposed date by which defendants' response to class plaintiffs' motion for class certification would be due. The parties hereby agree and stipulate to the following dates regarding class briefing (which dates would replace the dates currently set forth in sections 11(d) - (g) of the April 28, 2000 Amended Order Establishing Pretrial Schedule and Procedures):

- 11(d) Defendants will respond to class plaintiffs' motions for class certification within 45 days after completion of the last class representatives' deposition.
- 11(e) Class plaintiffs will reply within 30 days after the filing of defendants' responses to class plaintiffs' motions for class certification. Class plaintiffs may submit one or more expert reports as part of their reply in support of a particular certification motion only if defendants submitted one or more expert reports in opposition to that motion, in which case class plaintiffs shall have the right to take the deposition of each of defendants' experts before submitting their reply by the date set forth above.
- 11(f) If class plaintiffs submit one or more expert reports as part of their reply in support of a particular certification motion, defendants opposing that motion shall have the right to file a surreply and to take the deposition of each of class plaintiffs' experts before

UCB Chemicals Corp. for UCB Pharma, Inc. That motion has not been ruled on yet.) This stipulation is not a waiver of any service or jurisdictional defenses that any of the foregoing defendants may have.

submitting their surreply, which will be due within 30 days after the filing of class plaintiffs' reply.

- 11(g) If defendants submit a surreply, class plaintiffs shall have the right to submit a sur-surreply within 21 days after the filing of defendants surreply.

Respectfully submitted,



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Attorneys for Defendants UCB Pharma, Inc. and
UCB Chemicals Corp., and, for purposes of this
submission, on behalf of all domestic non-settling
class defendants.

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By Express Permission



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January 19, 2001

Attorneys for Class Plaintiffs